

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. CC 2011 122

KAREN ANNMARIE JACKSON,

OAH No. 2013051112

Respondent.

ORDER OF DECISION

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Optometry as its Decision in the above-entitled matter.

This Decision shall become effective on April 23, 2014.

IT IS SO ORDERED this 24th day of March.

By:

Alyson M. Aveland, MD

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STATE BOARD OF OPTOMETRY
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In the Matter of the Accusation Against:

KAREN ANNMARIE JACKSON,

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Case No. CC 2011 122

OAH No. 2013051112

PROPOSED DECISION

Administrative Law Judge Wilbert E. Bennett, State of California, Office of Administrative Hearings, heard this matter on January 28, 2014 in Sacramento, California.

Anahita S. Crawford, Deputy Attorney General, represented complainant Mona Maggio, Executive Officer of the State Board of Optometry (Board).

Respondent Karen Annmarie Jackson represented herself.

Evidence was received, the record was closed, and the matter was submitted for decision on January 28, 2014.

At the hearing, complainant amended the Accusation to correct a clerical error at page 4, line 12, by striking "paragraphs 10 through 12" and substituting therefor "paragraphs 7 through 13."

FACTUAL FINDINGS

Procedural Background

1. On February 12, 2013, complainant filed the Accusation in her official capacity.
2. On July 1, 2011, the Board issued Optometrist License No. 14224 to respondent.

3. On July 10, 2012, an order compelling psychological evaluation of respondent was issued pursuant to the provisions of Business and Professions Code section 820. The Board designated Eugene P. Roeder, Ph.D., to conduct this evaluation. Subsequently, a psychological evaluation was conducted on September 5, 2012, and an accusation in this matter was filed pursuant to Business and Professions Code section 822, which alleged that respondent's ability to safely practice as an optometrist is impaired due to mental and/or physical illness affecting her competency.

Factual Background

4. The factual background which prompted the Board's investigation and the resulting psychological evaluation follows:

On December 9, 2011, at approximately 4:00 p.m., the Grass Valley police found respondent walking along Highway 49. Upon contact, respondent requested transport to a hospital for a voluntary mental health evaluation. After being transported to a hospital, respondent refused to answer any questions from hospital personnel and pretended to be sleeping. Despite her refusal to respond to hospital staff attempts to provide her with services, respondent refused to leave the hospital until after being advised that she would be arrested for trespass. The Grass Valley police then transported respondent to her home. At approximately 6:00 p.m., the police officers, after receiving witness reports, were dispatched to an intersection where they found respondent walking along the street completely naked except for a hat. Respondent was uncooperative with law enforcement, pretended to be asleep, and would squeeze her eyes shut at law enforcement attempts to manually open her eyes. Medical personnel were dispatched to the scene and determined that respondent had no medical needs and had normal vital signs. Thereafter, respondent was arrested for indecent exposure and taken to Saint Helena Hospital, where she remained for ten days and was prescribed an antipsychotic medication, Saphris.

Police Officer Testimony

5. Officer Brian Blakemore, assigned to the Patrol Division of the Grass Valley Police Department, testified that he arrested respondent on the December 9, 2011 occasion in question after her transport to a hospital for a voluntary mental health evaluation. He also testified that on a prior occasion, on November 21, 2011, respondent was transported by police to a hospital where she was subjected to an involuntary hospitalization pursuant to Welfare and Institutions Code section 5150, which authorizes such hospitalization if a person "as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled." He also documented subsequent law enforcement contacts with respondent based on reported aberrant behavior: on November 16, 17, and 19, 2012. On the November 16 occasion, police responded to a "911" call in which children were heard screaming in the background. On the November 17 occasion, respondent's cousin requested police to perform a welfare check on her because she was having mental health issues. On the November 19 occasion, respondent was discovered walking along the highway median carrying several pieces of luggage and was removed by police for safety reasons.

Psychological Evaluation

6. Dr. Roeder is a California licensed psychologist, who has maintained a practice in clinical and forensic psychology since 1984. He has been qualified as an expert witness for 30 years in criminal, civil, and juvenile courts, and has testified in numerous court and administrative hearings. Preliminary to his psychological evaluation of respondent on September 5, 2012, the Board asked him to determine whether her psychological condition impaired her ability to safely practice as an optometrist. His evaluation procedures consisted of the following: a review of Board records pertaining to the order compelling psychological evaluation; a two-hour clinical interview, and the administration of psychodiagnostic testing instruments which included the Shipley Instrument of Living Scale, the Minnesota Multiphasic Clinical Inventory – 2nd Edition – RF (MMPI-2-RF), and the Millon Clinical Multiaxial Inventory – 3rd Edition (MCMI-III). After conducting his psychological evaluation of respondent, Dr. Roeder prepared a written report setting forth his conclusions, which included the following:

The psychological testing does not give any indication of emotional, thought, behavioral or interpersonal dysfunction, but such problems cannot be ruled out. She produced a set of personality test results consistent with someone who does give evidence of appreciable dysfunction but their scores reflect an effort to “cover up.” Intellectual testing finds an estimated IQ of 98 on Dr. Jackson’s part, a relatively poor score given her advanced degree and one which would indicate her intellectual and cognitive functioning is likely compromised by her underlying psychiatric difficulties.

The issue of whether Dr. Jackson is mentally ill to the extent that her ability to safely practice as an optometrist is impaired is one which is difficult to assess based on the data available. Clearly, Dr. Jackson is experiencing symptoms of a severe mental illness which are currently controlled by the use of antipsychotic medication. What is also apparent is that her intellectual and cognitive functioning is likely compromised at the present time, as both her vocabulary skills and her abstract thinking/problem solving abilities fall just below average for the general adult population, and well below what would be expected of someone with an advanced degree. As noted above, psychological testing is not able to “rule out” that Dr. Jackson is experiencing significant ongoing difficulties, as she was working hard to present herself as well-adjusted and problem free. It should be noted this occurred despite the fact Dr. Jackson was given specific instructions to be as honest as possible on the testing, with the warning that if she tried to make herself look good on the assessment, it would come out

that she was being dishonest, and this would not be in her best interest.

The evaluation results would lead to the recommendation that Dr. Jackson participate in mental health treatment, in addition to her once every six weeks appointment with a psychiatrist to assure that her medication intervention remains appropriate. It would be important for Dr. Jackson to be meeting regularly on an outpatient basis with a doctoral level counselor or therapist, someone who has experience in the treatment of severe mental illness including psychosis. Based on the psychological evaluation results, it would be appropriate for Dr. Jackson to participate in this ongoing supportive intervention for a period of time, on the order of 90 to 120 days, before participating in a reevaluation or evaluation update, with a continued focus on whether she can practice safely. At the least, Dr. Jackson should be required to participate in such a mental health intervention concurrently if it is determined there is insufficient evidence to suspend her license at the present time.

7. At hearing, Dr. Roeder amplified upon his conclusions that respondent's psychotic symptoms seemed to be controlled by medication but that her cognitive symptoms were likely compromised by the underlying mental illness. He noted that although the Board had not requested him to make a diagnosis, his diagnosis of respondent would have been "psychotic disorder, not otherwise specified." He further noted that the December 9, 2011 incident represented a psychotic episode in which respondent "lost touch with reality." Dr. Roeder further testified that his original conclusions were reinforced by the testimony of Officer Blakemore regarding subsequent incidents and an involuntary hospitalization several weeks prior to the December 9 psychotic episode. (Dr. Roeder was not aware of the involuntary hospitalization when he conducted his psychological evaluation on September 5, 2012.) According to Dr. Roeder, the involuntary hospitalization on November 21 indicated that the December 9 incident was, in fact, part of an extended and sustained psychotic episode. Dr. Roeder opined that the minimum conditions necessary to assure safe optometric practice if respondent were allowed to retain her license on a probationary basis are the following: continued mental health treatment with appropriate medication intervention, and daily practice monitoring under supervision. This opinion was based on his assessment of the impact of respondent's illness on her ability to practice. He noted that the psychotic symptoms which he detected are consistent with schizophrenia, which he characterized as "a chronic mental disorder that involves impairment."

Respondent's Background and Testimony

8. Respondent is a 47-year old optometrist who has been licensed by the Board since July 1, 2011. She is a native of Jamaica, who was previously licensed in Florida in 2004, and opened her own practice in that state. Within several months of her obtaining

California licensure, she experienced the psychological difficulties which resulted in the filing of the Accusation in this matter. Upon obtaining California licensure, she secured an employment position as an optometrist with a correctional facility in Tracy, on a one-day per week basis, which she held from October, 2011, until the psychotic episode in December of 2011. Thereafter, in May of 2012, she started doing "fill-in" work for other optometrists. Based on the evidentiary record, respondent has not worked as an optometrist on a full-time regular basis since obtaining California licensure. Respondent testified that she last worked as an optometrist in April of 2013 because she mistakenly believed that her license had been suspended.

9. Respondent testified regarding the incident on December 9, 2011. Although she remembered the incident in which she was found naked on the highway, she declined to state the reasons for her behavior. She stated that she remembered taking off her clothes and lying on the side of the road prior to her arrest. She stated that the alleged prior encounter with police on that date, described in the testimony of Officer Blakemore, did not occur and was a complete fabrication. Although not qualified as an expert to render an opinion on psychological matters, she characterized the indecent exposure incident as a brief psychotic disorder resulting from extreme stress which is curable when the stressors are removed, although it may be somewhat resolved by medication. Respondent submitted a typed response to the Accusation in which she provided a purported definition of "brief psychotic disorder" as a "short-term illness with psychotic symptoms [which] is characterized by complete spontaneous recovery." She stated that there was no reason to arrest her for the December 9 incident because police knew "there was a mental issue going on" in light of the November 17 involuntary hospitalization. She further stated that her ex-husband's removal of her children from her residence in the summer of 2011 triggered the brief psychotic episode in December of that year. Also contributing to her "prolonged stress" was what she characterized as "harassment" from the Grass Valley police. Respondent moved from Grass Valley in January 2013 in order to remove herself from a stressful situation. Even after respondent left Grass Valley, a psychiatrist in San Bernardino diagnosed her, in May 2013, as suffering from a "brief psychotic disorder."

On December 13, 2013, she experienced another psychiatric hold pursuant to Welfare and Institutions Code section 5150. On that occasion, a woman at the homeless shelter where respondent was staying called police because respondent made her feel "unsafe." Respondent acknowledged this incident as indicative of a brief psychotic episode in which she was "not herself," and felt stressed because of her living situation. Since that incident, she has moved from the homeless shelter and obtained employment as a part-time tutor for elementary and middle school students, working approximately 10 hours per week. She tries to avoid stress in order to prevent a recurrence of her psychotic episodes. She identified "not being able to get a job" and "being misdiagnosed" as stressors in her life. She sees a psychiatrist every 11 weeks and is compliant with her prescribed medication regimen. If she were allowed to retain her optometrist license, she would like to work on a fill-in basis twice a month.

Discussion

10. Respondent concedes that she has suffered from a condition requiring a regimen of antipsychotic medication. Without recitation to any expert opinion, she describes that condition as reflective of brief psychotic disorder amenable to medication and "complete spontaneous recovery," once stressors are removed from her environment. Complainant, in reliance upon psychological evaluation results and expert testimony, asserts that respondent has a mental illness of a longstanding nature affecting her ability to practice.

11. While respondent does not contest her proclivity to experience psychotic episodes based on various life stressors (particularly during holiday periods), she resists the notion of a probationary license to assure her safe practice. From her perspective, she has never demonstrated substandard practice or endangered patients. She believes that any mental health issues may be addressed through medication and removal from psychosocial stressors, and does not understand the necessity for Board-ordered monitoring to assure that her mental health condition does not affect the safe rendering of optometric services to patients. She views a probationary license, wherein she would be required to function under supervised monitoring, as demeaning and as an unnecessary professional stigma. She was somewhat less resistant to a probationary requirement of continued mental health counseling than she was to a requirement of supervised, monitored practice – two conditions which Dr. Roeder deemed necessary for safe practice. Based on the attitudes which respondent expressed at hearing, it may reasonably be concluded that she is not a suitable candidate for probation. Because she would not be a willing probationer, the likelihood of her successful compliance with probationary requirements is substantially diminished. The fact that respondent, by her own testimony, was placed on a psychiatric hold approximately 60 days ago (as noted in Finding 9) demonstrates, consistent with the testimony of Dr. Roeder, that she currently has an impairing mental illness that is not sufficiently under control to permit safe optometric practice.

12. Complainant has established, through expert testimony, that respondent's ability to safely practice as an optometrist is impaired due to mental illness affecting competency. Accordingly, respondent's license should be revoked in order to protect the public.

Costs of Investigation and Enforcement

13. Complainant offered a declaration that it had incurred \$2,975.00 as the costs of prosecution of this matter.

LEGAL CONCLUSIONS

1. Under Business and Professions Code section 822, a licensing agency may revoke or take other action it deems appropriate when it determines that "its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally

ill, or physically ill affecting competency." In proceedings conducted pursuant to section 822, the report of the examining psychologist may be received as direct evidence of mental illness. (Bus. & Prof. Code, § 820.)

2. Because of the potential risk to patients, it would be contrary to the public interest to allow respondent to keep her optometrist license.

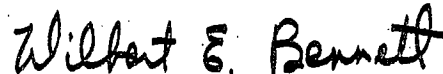
3. Complainant has requested that respondent be ordered to pay the Board the costs of investigation and enforcement of the case. Business and Professions Code section 125.3 provides that "a licensee found to have committed a violation or violations of the licensing act" may be ordered to pay the board "a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

Respondent is not subject to cost recovery under this section because she has not committed any violation of the Optometry Practice Act (Bus. & Prof. Code, div. 2, ch. 7, § 3000 et seq.).

ORDER

Optometrist License No. 14224 issued to respondent Karen Annmarie Jackson is revoked.

Dated: February 19, 2014



WILBERT E. BENNETT
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **STATE BOARD OF OPTOMETRY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. CC 2011 122

13 **KAREN ANNMARIE JACKSON**
536 Whiting Street, Suite 49
Grass Valley, CA 95945

A C C U S A T I O N

14 **Optometrist License No. 14224**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about July 1, 2011, the State Board of Optometry issued Optometrist License
22 Number 14224 to Karen Annmarie Jackson (Respondent). The Optometrist License will expire
23 on April 30, 2014, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the State Board of Optometry (Board), Department
26 of Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code unless otherwise indicated.

28 ///

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

5. Code section 820 states:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and be received as direct evidence in proceedings conducted pursuant to Section 822.

6. Code section 822 states:

If the licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

FACTUAL BACKGROUND

7. An investigation conducted by the Board revealed that Respondent may be mentally and/or physically ill to the extent that her ability to practice safely as a licensed optometrist is impaired. The Board investigation revealed the following concerning Respondent's conduct:

8. On December 9, 2011 at approximately 4 p.m., Grass Valley Police Department ("GVPD"), received a call regarding a female (Respondent), walking along the highway. Upon contact, Respondent requested transport to an emergency room for a voluntary mental health evaluation. Respondent was dropped off at the hospital.

1 9. A few minutes after being dropped off, a GVPD officer who was at the hospital was
2 called into assist the triage nurse as Respondent was being uncooperative. Respondent pretended
3 to be asleep and refused to respond to questions. GVPD finally convinced Respondent to allow
4 them to return her to her home as she was uncooperative and unresponsive to medical staff
5 attempts to provide her with services.

6 10. At approximately 6 p.m., GVPD was dispatched to an intersection where witnesses
7 were reporting that a female (Respondent) was walking along the street completely naked except
8 for a hat. Respondent was uncooperative with law enforcement, pretended to be asleep and
9 would squeeze her eyes shut at law enforcement attempts to manually open her eyes. Medical
10 personnel were dispatched to the scene and determined that Respondent had no medical needs
11 and had normal vital signs. Respondent was arrested for indecent exposure. No charges were
12 filed.

13 PSYCHOLOGICAL EVALUATION

14 11. In a report dated September 5, 2012, Dr. Eugene P. Roeder, Ph.D., based on
15 psychological testing, document review, and interviews with Respondent, determined that
16 Respondent was experiencing symptoms of a severe mental illness. Respondent had identified
17 that she had been diagnosed with Psychosis around the time of the above incident and was
18 currently taking anti-psychotic medication, which Dr. Roeder believed was controlling the
19 symptoms of her mental illness.

20 12. Dr. Roeder opined that Respondent's intellectual and cognitive functioning were
21 compromised, even on the medication, as her test results fell "well below what would be expected
22 of someone with an advanced degree." The tests were unable to rule out that Respondent was
23 experiencing significant ongoing difficulties as the test indicated that she was being dishonest in
24 her answers.

25 13. Dr. Roeder recommended that, in addition to regular psychiatric appointments, that
26 Respondent participate in ongoing mental health treatment for 90 to 120 days before
27 evaluating/reevaluating whether she can practice safely.

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1 **COST RECOVERY**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **CAUSE FOR DISCIPLINE**

9 **(Impaired Ability to Safely Practice Profession Due to Mental/Physical Illness)**


10 15. Respondent is subject to disciplinary action pursuant to section 822 in that her ability
11 to safely practice her profession as an optometrist is impaired due to mental and/or physical
12 illness affecting her competency, as more fully set forth in paragraphs 10 through 12, above.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the State Board of Optometry issue a decision:

- 16 1. Revoking or suspending Optometrist License Number 14224, issued to Karen
17 Annmarie Jackson;
18 2. Ordering Karen Annmarie Jackson to pay the State Board of Optometry the
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 125.3;
21 3. Taking such other and further action as deemed necessary and proper.
22

23 DATED: February 12, 2013


24 MONA MAGGIO
25 Executive Officer
26 State Board of Optometry
27 Department of Consumer Affairs
28 State of California
Complainant

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